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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JAN - 7 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Policy and Rules Concerning)
the Interstate, Interexchange)
Marketplace) CC Docket No. 96-61
)
Implementation of Section 254(g))
of the Communications Act of)
1934, as amended)
)

OPPOSITION OF SPRINT CORPORATION

Sprint Corporation ("Sprint"), pursuant to Section 1.429(f) of the Commission's Rules, hereby respectfully submits its opposition to the petitions seeking further reconsideration filed in the above-captioned proceeding. Petitioners seek reconsideration of the Commission's decision set forth in the *Order on Reconsideration* (FCC 97-293), released August 20, 1997 (*Reconsideration Order*), to eliminate the requirement that nondominant interexchange carriers ("IXCs") maintain and make available to the public information showing the current rates, terms and conditions for all of their interstate, domestic, interexchange mass market services. Sprint respectfully requests that such petitions be denied and in support thereof states as follows.¹

¹The validity of both the Commission's underlying decision herein mandating that nondominant IXCs remove their tariffs for domestic interexchange services on file with the Commission -- *Second Report and Order*, 11 FCC Rcd 20730 (1996) (*Detariffing Order*) -- and the *Reconsideration Order* are being

Footnote continues next page.

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Sprint believes that the Commission's decision in the *Reconsideration Order* to eliminate the obligation that nondominant carriers maintain and publicly disclose schedules setting forth rates, terms and conditions of their services is well justified. In fact, such decision is compelled by the logic of the Commission's mandate that nondominant carriers no longer provide domestic interexchange services pursuant to tariffs on file with the Commission.

Detariffing is based in large measure on the Commission's view that nondominant carriers should "conduct their business as other [competitive] enterprises do" and should not "be subject to a regulatory regime that is not available to firms that compete in any other market in this country." *Detariffing Order* at 20763 ¶57. Sprint is unaware of enterprises in other competitive markets that are required to maintain publicly available schedules of their rates, terms and conditions and are required to adhere to such published schedules in the sale of their goods or provision of their services. To the contrary, they may charge their customers different prices or rates depending upon the

challenged by Sprint and others before the U.S. Court of Appeals for the District of Columbia. *MCI Telecommunications Corp. et al. v. FCC*, No. 96-1459 et al. If the Court invalidates the Commission's mandatory detariffing scheme, the petitioners' reconsideration request at issue will be moot. Nondominant IXCs will be required by the terms of Section 203 of the Act to offer their services pursuant to tariff; or, if a permissive tariffing scheme is eventually adopted by the Commission, such carriers -- at least the larger IXCs -- will likely offer their mass market services pursuant to tariff as they did during the period from the mid-1980s to the early 1990s when the Commission's previous permissive tariffing regime was in effect.

demand for and supply of the product or service at a given point in time as well as the size and bargaining skills of their potential customers.

Petitioners argue that public disclosure of IXCs' rates, terms and conditions is necessary to enable consumers to make informed choices as to the carriers and rate plans that satisfy their communications needs. Otherwise, according to petitioners, carriers will only reveal their best rates on a selective basis, such as to customers who are persistent in seeking bargains or to customers who threaten to switch to another carrier. See, e.g., TRAC/CFA Petition at 3; Coalition/TURN at 4-5, 7-8.

The notion that IXCs operating in a highly competitive markets will hide their most competitive rates from the public is illogical. A carrier that fails to keep its customers informed as to the rate plans that best meets their communications requirements can hardly expect to be successful.

Certainly, the Commission expects that competition will ensure that carriers fully publicize their service offerings and thus tariffs are no longer needed to perform the notice function. It explains that competitive IXCs must make information concerning their rates and services available to consumers if they are "to improve or maintain their competitive position in the market." *Reconsideration Order* at ¶66. Assuming that the Commission's expectations here are realistic, there is no need to reinstate the public disclosure requirements adopted in the

Detariffing Order. Those requirements effectively imposed a tariff filing obligation on nondominant carriers, albeit at a location other than the Commission. Carriers would have to maintain schedules of their rates, terms and conditions of their offerings, provide service pursuant to such schedules, and make the schedules available to the public upon request. The carriers' obligations in this regard can hardly be viewed as different from the filing requirements of Section 203 of the Act.²

Petitioners' claim that IXCs seek to hide their rates and service offerings from the general public is also belied by the massive advertising and marketing efforts engaged in by these carriers. The IXCs' use of various mass media outlets, e.g., over-the-air television, cable, radio, newspapers and magazines, to inform consumers of their offerings is substantial. IXCs also send mailings periodically to potential customers promoting their various service offerings; they engage in outbound telemarketing; they make their new service plans known to their own customers through the use of billing inserts and by contacting them directly over the phone; and IXCs are increasingly using the Internet as a tool to market their services to customers. Given the plethora of information available, diligent consumers should

²The alleged "evils" cited by the Commission as justification for detariffing, e.g., the so-called "filed rate doctrine," would not be eliminated if the Commission grants the reconsideration petitions.

be able to make an informed choice as to IXCs and rate plans that will best satisfy their communications requirements. In any case, they are no worse off -- and in some cases may be better off -- without a public disclosure mandate.

Petitioners' other arguments for having the Commission reinstate the public disclosure requirement are equally without merit. For example, the Commission's decision at issue here is not, as TRAC/CFA argue, "in direct conflict with [the Commission's] efforts to reduce the exploding problem of slamming." Petition at 4. Petitioners TRAC/CFA do not provide any plausible reason as to why a requirement that IXCs publicly disclose their rates, terms and conditions is necessary to control slamming. Nor could they since slamming has been "exploding" in a tariffed environment and the primary cause of slamming, *i.e.*, fraud, will exist regardless of any public disclosure requirement.

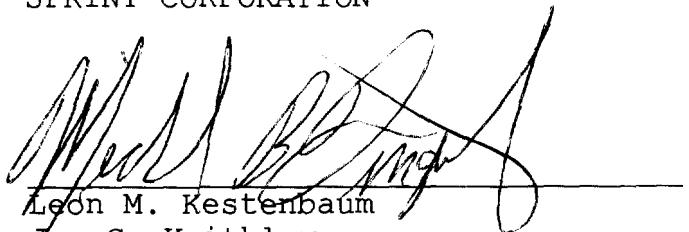
Moreover, contrary to the argument by Coalition/TURN (Petition at 9-10), a public disclosure requirement is not necessary to ensure that carriers comply with the rate integration and geographic averaging provision of the Act. 47 U.S.C. §254(g). The fact that IXCs will have to certify on an annual basis that they are meeting the requirements imposed by Section 254(g) and that carriers "may be subject to civil and criminal penalties for violations of these requirements, especially willful violations," *Detariffing Order* at 20775, ¶83,

provides enough incentive to ensure compliance. Although the Commission was previously "persuaded" that it was "appropriate" to impose a public disclosure requirement to provide consumers with information to help the Commission determine whether carriers are adhering to their Section 254(g) obligations, *id.* at 20776, ¶84, the reality is that, as the Commission notes, consumers have access to sufficient information through a variety of sources to bring to the Commission's attention any apparent violations of this statutory provision. *Reconsideration Order* at ¶70.

For the reasons set forth above, Sprint respectfully requests that the Reconsideration Petitions at issue be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Opposition of Sprint Corporation** was sent by United States first-class mail, postage prepaid, on this the 7th day of January, 1998 to the below-listed parties:


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